

P20400.A06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : K. STEINER et al.

Appln. No: 09/758,243

Filed : January 12, 2001

For : WATER DRAINING DEVICE



Group Art Unit : 1731

Examiner : Fortuna

ELECTION WITH TRAVERSE

Commissioner of Patents and Trademarks
Washington, D.C. 20231

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Sir:

This is in response to the requirement for restriction under 35 U.S.C. 121 mailed from the U.S. Patent and Trademark Office on June 11, 2002, which sets a one month period for response until July 11, 2002.

Applicants note that this response is being submitted prior to the expiration of the initial due date of July 11, 2002, whereby an extension of time and an extension of time fee are not required for maintaining the pendency of the application. However, if any government fees are required for maintaining the pendency of this application, including any extension of time fees, this response expressly requests and authorizes that any such required fee be charged to Deposit Account No. 19-0089.

Reconsideration and withdrawal of the requirement for restriction are respectfully requested in view of the remarks which follow:

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RESTRICTION REQUIREMENT

The Examiner has required restriction to one of the following inventions under 35 U.S.C. 121:

- I. Claims 1 - 21, drawn to a "Draining Device," classified in class 141, subclass 364;
- II. Claims 22 - 23, drawn to a "Method a draining water," classified in class 162, subclass 189; and
- III. Claims 24 - 40, drawn to a "Press arrangement," classified in class 162, subclass 358.1.

ELECTION

In order to be responsive to the requirement for restriction, Applicants elect the invention set forth in Group I, claims 1-21, with traverse.

TRAVERSE

Notwithstanding the election of the claims of Group I in order to be responsive to the Restriction Requirement, Applicants respectfully traverse the Examiner's requirement for restriction.

Initially, it is noted that the requirement for restriction omits one of the two criteria of a proper requirement as now established by U.S. Patent and Trademark Office policy, as set forth in MPEP 803, viz. that "an appropriate explanation" must be advanced by the Examiner as to the existence of a "serious burden" if a restriction were not required. Due to the aforementioned omission, it is respectfully submitted that the requirement for restriction is improper and,

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consequently, its withdrawal is respectfully requested.

Related to this, the requirement is traversed since there would not appear to be a serious burden to examine Applicants' application in total, and for which the appropriate claim fees have been paid. Applicants submit that it would be no serious burden on the Examiner to examine all of the pending claims, because a search for all of the claims in the above-identified application, should be made in order to do a complete and thorough search in view of the relationship between the claims in Groups I, II and III.

In any event, whether or not the restriction requirement is maintained, rejoinder of at least Groups I and II of claims is respectfully requested upon allowance of the elected claims of Group I. In this regard, following the reasoning in MPEP 821.04, and based upon Applicants' election of claims directed to the apparatus, upon finding of allowability of the apparatus claims, withdrawn process claims which depend from or otherwise include all the limitations of the allowable apparatus claims would appear to be rejoinderable.

In view of the foregoing, it is respectfully requested that the Examiner seriously reconsider the requirement for restriction, and withdraw the same so as to give an examination on the merits on all of the claims pending in this application. At a minimum, rejoinder of the process claims of Group II upon allowance of the products claims of Group I is respectfully requested.

CONCLUSION

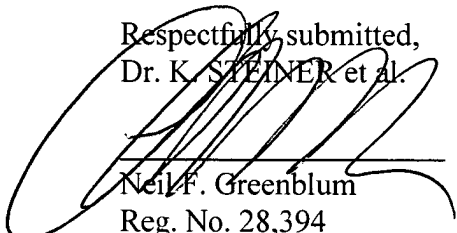
For the reasons discussed above, it is respectfully submitted that the requirement for restriction is improper and should be withdrawn.

Withdrawal of the requirement for the restriction with the examination of all claims pending in this application is respectfully requested.


Favorable consideration with early allowance of the pending claims is most earnestly requested.

If the Examiner has any questions, or wishes to discuss this matter, please call the undersigned at the telephone number indicated below.

Respectfully submitted,
Dr. K. STEINER et al.


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July 11, 2002
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